

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHNSON & JOHNSON,

Plaintiff,

-v-

POWERFUL SWING LLC,

Defendant.

22-CV-5746 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On August 25, 2022, Plaintiff filed a motion for entry of a default judgment under Rule 55(b)(2) of the Federal Rules of Civil Procedure and Local Civil Rule 55.2(b). *See* ECF No. 18. A default judgment hearing is currently scheduled for September 28, 2022.

“It is well settled that a court may not properly enter a default judgment unless it has jurisdiction over the party against whom the judgment is sought, which means that [each defendant] must have been effectively served with process.” *Cont'l Indem. Co. v. Bulson Mgmt., LLC*, No. 20-CV-3479 (JMF), 2022 WL 1747780, at *2 (S.D.N.Y. May 31, 2022) (internal quotation marks omitted). No later than **September 28, 2022**, Plaintiff shall file a letter-brief addressing whether service on Powerful Swing LLC by serving it via the Texas Secretary of State was proper. *See* ECF No. 20-2; *see also, e.g., Holloway v. Auto. Promotion Consultants, LLC*, 20-CV-1023, 2021 WL 1759863, at *2 (W.D. Tex. May 3, 2021) (“Service of a business entity via the Texas Secretary of State is authorized by Texas law where ‘the registered agent of the entity cannot with reasonable diligence be found at the registered office of the entity.’” (quoting Tex. Bus. Orgs. Code § 5.251)); *Acadian Properties Austin, LLC v. KJMonte Invs., LLC*, 650 S.W.3d 98, 105-09 (Tex. App. 2021). Alternatively, Plaintiff may move, by letter-motion, for an appropriate adjournment to cure any service problems.


In light of the foregoing, the default judgment hearing is ADJOURNED to **October 6, 2022, at 9:30 a.m.** It will be held **remotely by telephone** in accordance with Rule 3(B) of the Court’s Individual Rules and Practices in Civil Cases, available at <https://nysd.uscourts.gov/hon-jesse-m-furman>. The parties should join the conference by calling the Court’s dedicated conference line at (888) 363-4749 and using access code 542-1540, followed by the pound (#) key. (Members of the public and press may also attend using the same dial-in information; they will not be allowed to speak during the conference.) Counsel should review and comply with the rules regarding teleconferences in the Court’s Individual Rules and Practices in Civil Cases, including Rule 3(B)(i), which requires the parties, **no later than 24 hours before the conference**, to send a joint email to the Court with the names and honorifics (e.g., Mr., Ms., Dr.,

etc.) of counsel who may speak during the teleconference and the telephone numbers from which counsel expect to join the call.

Plaintiff is ORDERED to email or mail a copy of this Order to Defendant no later than **September 26, 2022**, and shall docket proof of such service by **September 28, 2022**.

SO ORDERED.

Dated: September 23, 2022
New York, New York



JESSE M. FURMAN
United States District Judge